

Atty Docket No. 020903-014400US

PTO FAX NO.: 1 703 308-6916

ATTENTION: Examiner Not Yet Assigned
TELEPHONE NO.:

Group Art Unit NYA

OFFICIAL COMMUNICATION
FOR THE PERSONAL ATTENTION OF
EXAMINER Not Yet Assigned

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following document(s) in re Application of Irvin H. Stumler, Application No. 09/868,527, filed June 19, 2001 for DISPENSING MACHINE WITH PORTION CONTROL is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Document(s) Attached

1. Petition for Revival
2. Communication
3. Fee Transmittal
4. Power of Attorney
5. Revocation of Power of Attorney
6. Statement Under 37 CFR 3.73(b)

Number of pages being transmitted, including this page:

Dated: 2/26/03



Lata Olivier

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PETITIONS OFFICE

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TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834
Telephone: 415-576-0200
Fax: 415-576-0300
SP 1436495 v1

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)		Docket Number (Optional) 020903-014400US
First named inventor: Irvin H. Stumler		
Application No.: 09/888,527	Art Unit: Not Assigned Yet	
Filed: June 19, 2001	Examiner: NYA FAX RECEIVED	
Title: DISPENSING MACHINE WITH PORTION CONTROL	FEB 26 2003	
Attention: Office of Petitions Assistant Commissioner for Patents Box DAC Washington, D.C. 20231	PETITIONS OFFICE	
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703)305-9282.		
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.		
APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION		
NOTE: A grantable petition requires the following items:		
(1) Petition fee;		
(2) Reply and/or issue fee;		
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; and		
(4) Statement that the entire delay was unintentional.		
1. Petition fee		
<input type="checkbox"/> Small entity - fee \$_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.		
<input checked="" type="checkbox"/> Other than small entity - fee \$1300 (37 CFR 1.17(m))		
2. Reply and/or fee		
A. The reply and/or fee to the above-noted Office action in the form of <u>COMMUNICATION</u> (Identify type of reply):		
<input type="checkbox"/> has been filed previously on _____		
<input checked="" type="checkbox"/> is enclosed herewith.		
B. The issue fee of \$ _____		
<input type="checkbox"/> has been paid previously on _____		
<input type="checkbox"/> is enclosed herewith.		

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. (NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))).

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

2/26/03

Date

Kevin T. LeMond

Signature

Telephone
Number: (415) 576-0200

Kevin T. LeMond

Typed or printed name

Townsend and Townsend and Crew LLP

Two Embarcadero Center

8th Floor

San Francisco, CA 94111

Address

- Enclosures: ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☒ Other Power of Attorney; Revocation of Power of Attorney; Statement Under 37 CFR 3.73(b)

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.
- ☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

2/26/03

Date

Lata Olivier

Signature

Lata Olivier

Typed or printed name of person signing certificate

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PATENT
Docket No.: 020903-014400US

On 2/26/03

TOWNSEND and TOWNSEND and CREW LLP

By: [Signature]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Irvin H. Stumler

Application No.: 09/868,527

Filed: June 19, 2001

For: DISPENSING MACHINE WITH
PORTION CONTROL

Examiner: Not Yet Assigned

Art Unit: NYA

COMMUNICATION

FAX RECEIVED

FEB 26 2003

PETITIONS OFFICE

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicant is petitioning for revival of this unintentionally abandoned patent application. It is applicant's belief that this application went abandoned for failure to pay the filing fee. Accordingly, applicant hereby authorizes the Commissioner to charge the filing fee to Deposit Account 20-1430.

This application was filed based upon PCT patent application No. PCT/US00/11743. The application was filed before the Chapter II National Phase deadline of October 27, 2001. Shortly after filing the present application, the entire interest and all rights in this case were assigned to Dreyer's Grand Ice Cream, Inc.

Dreyer's did not realize that a National Phase application (this present application) had already been filed and thus, their previous patent counsel filed a second National Phase application (Application No. 10/030,517). Because two patent applications could not be filed from the same PCT application, the USPTO canceled the second application (Application No. 10/030,517).

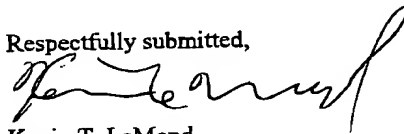
Dreyer's has subsequently transferred these cases to Townsend and Townsend and Crew and we have become aware of the situation. Thus, we are petitioning for revival of the unintentionally abandoned patent application No. 09/868,527. It is believed that the chain of events outlined above support the position that application no. 09/868,527 was unintentionally abandoned.

Accordingly, applicant hereby authorizes the Commissioner to charge the filing fee and Petition to Revive fee to Deposit Account 20-1430.

CONCLUSION

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 576-0200.

Respectfully submitted,

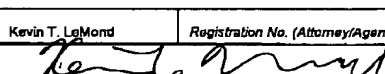


Kevin T. LeMond
Reg. No. 35,933

TOWNSEND and TOWNSEND and CREW LLP
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San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
KTL:lo
SF 1435028 v1

<h2 style="margin: 0;">FEE TRANSMITTAL</h2> <h3 style="margin: 0;">for FY 2003</h3> <p style="font-size: small; margin: 0;">Patent fees are subject to annual revision.</p> <p><input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27</p>	<p style="text-align: center; font-size: small;">Complete if Known</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Application Number</td> <td>09/868,627</td> </tr> <tr> <td>Filing Date</td> <td>June 19, 2001</td> </tr> <tr> <td>First Named Inventor</td> <td>Stumler, Irvin H.</td> </tr> <tr> <td>Examiner Name</td> <td>Not Yet Assigned</td> </tr> <tr> <td>Group Art Unit</td> <td>NYA</td> </tr> <tr> <td>Attorney Docket No.</td> <td>020803-014400US</td> </tr> </table>	Application Number	09/868,627	Filing Date	June 19, 2001	First Named Inventor	Stumler, Irvin H.	Examiner Name	Not Yet Assigned	Group Art Unit	NYA	Attorney Docket No.	020803-014400US
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Attorney Docket No.	020803-014400US												
<p>TOTAL AMOUNT OF PAYMENT (S) 2386</p>	<p>FAX RECEIVED FEB 26 2003 PETITIONS OFFICE</p>												

<p>METHOD OF PAYMENT (check all that apply)</p> <p><input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None</p> <p><input checked="" type="checkbox"/> Deposit Account:</p> <p>Deposit Account Number: 20-1430</p> <p>Deposit Account Name: Townsend and Townsend and Crew LLP</p> <p>The Commissioner is authorized to: (check all that apply)</p> <p><input checked="" type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments</p> <p><input checked="" type="checkbox"/> Charge any additional fee(s) during the pendency of this application</p> <p><input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.</p>	<p>3. ADDITIONAL FEES</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Large</th> <th>Small</th> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td></td><td></td><td>1051</td><td>130</td><td>2051 65 Surcharge - late filing fee or oath</td><td></td></tr> <tr><td></td><td></td><td>1052</td><td>50</td><td>2052 25 Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td></td><td></td><td>1053</td><td>130</td><td>1053 130 Non-English specification</td><td></td></tr> <tr><td></td><td></td><td>1812</td><td>2,520</td><td>1812 2,520 For filing a request for reexamination</td><td></td></tr> <tr><td></td><td></td><td>1804</td><td>920*</td><td>1804 920* Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td></td><td></td><td>1805</td><td>1,840*</td><td>1805 1,840* Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td></td><td></td><td>1251</td><td>110</td><td>2251 65 Extension for reply within first month</td><td></td></tr> <tr><td></td><td></td><td>1252</td><td>410</td><td>2252 205 Extension for reply within second month</td><td></td></tr> <tr><td></td><td></td><td>1253</td><td>930</td><td>2253 465 Extension for reply within third month</td><td></td></tr> <tr><td></td><td></td><td>1254</td><td>1,450</td><td>2254 725 Extension for reply within fourth month</td><td></td></tr> <tr><td></td><td></td><td>1255</td><td>1,870</td><td>2255 985 Extension for reply within fifth month</td><td></td></tr> <tr><td></td><td></td><td>1401</td><td>320</td><td>2401 160 Notice of Appeal</td><td></td></tr> <tr><td></td><td></td><td>1402</td><td>320</td><td>2402 160 Filing a brief in support of an appeal</td><td></td></tr> <tr><td></td><td></td><td>1403</td><td>280</td><td>2403 140 Request for oral hearing</td><td></td></tr> <tr><td></td><td></td><td>1451</td><td>1,510</td><td>1451 1,510 Petition to institute a public use proceeding</td><td></td></tr> <tr><td></td><td></td><td>1452</td><td>110</td><td>2452 55 Petition to revive - unavoidable</td><td></td></tr> <tr><td></td><td></td><td>1453</td><td>1,300</td><td>2453 650 Petition to revive - unintentional</td><td>1300</td></tr> <tr><td></td><td></td><td>1501</td><td>1,300</td><td>2501 650 Utility issue fee (or reissue)</td><td></td></tr> <tr><td></td><td></td><td>1502</td><td>470</td><td>2502 235 Design issue fee</td><td></td></tr> <tr><td></td><td></td><td>1503</td><td>630</td><td>2503 315 Plant issue fee</td><td></td></tr> <tr><td></td><td></td><td>1450</td><td>130</td><td>1450 130 Petitions to the Commissioner</td><td></td></tr> <tr><td></td><td></td><td>1807</td><td>50</td><td>1807 50 Petitions related to provisional applications</td><td></td></tr> <tr><td></td><td></td><td>1806</td><td>180</td><td>1806 180 Submission of Information Disclosure Stmt</td><td></td></tr> <tr><td></td><td></td><td>8021</td><td>40</td><td>8021 40 Recording each patent assignment per property (times number of properties)</td><td></td></tr> <tr><td></td><td></td><td>1809</td><td>750</td><td>2809 375 Filing a submission after final rejection (37 CFR § 1.129(a))</td><td></td></tr> <tr><td></td><td></td><td>1810</td><td>750</td><td>2810 375 For each additional invention to be examined (37 CFR § 1.129(b))</td><td></td></tr> <tr><td></td><td></td><td>1801</td><td>750</td><td>2801 375 Request for Continued Examination (RCE)</td><td></td></tr> <tr><td></td><td></td><td>1802</td><td>900</td><td>1802 900 Request for expedited examination of a design application</td><td></td></tr> <tr><td colspan="5">Other fee (specify) _____</td><td></td></tr> <tr> <td colspan="5">*Reduced by Basic Filing Fee Paid</td> <td>SUBTOTAL (3) (S) 1300</td> </tr> </tbody> </table>	Large	Small	Fee Code	Fee (\$)	Fee Description	Fee Paid			1051	130	2051 65 Surcharge - 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SUBMITTED BY				Complete if applicable	
Name (Print/Type)	Kevin T. LeMond	Registration No. (Attorney/Agent)	35,933	Telephone	415-575-0200
Signature				Date	2/26/03

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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Dreyer's Grand Ice Cream, Inc.

Application No./Patent No.: 09/868,527

Filed/Issue Date: 05/19/2001

Entitled: DISPENSING MACHINE WITH PORTION CONTROL

Dreyer's Grand Ice Cream, Inc.

(Name of Assignee)

a Delaware Corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
The extent (by, percentage) of its ownership interest is _____%

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 012083, Frame 0873, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☒ Copies of assignments or other documents in the chain of title are attached.
(NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.8)

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

2-20-03
Date

Vicki L. Randall
Typed or printed name
[Signature]
Signature
Associate General Counsel
Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

SF 1428374 v1

TOTAL P.84

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1 510 450 4592 P.03/04
Rec'd PCT/PTO 26 FEB 2003

09/868527

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REVOCATION OF POWER OF ATTORNEY OR AUTHORIZATION OF AGENT	Application Number	09/868,527
	Filing Date	06/19/2001
	First Named Inventor	Irvin H. Stumler
	Group Art Unit	
	Examiner Name	
	Attorney Docket Number	020803-014400LIS

I hereby revoke all previous powers of attorney or authorizations of agent given in the above-identified application:

FAX RECEIVED

☒ A Power of Attorney or Authorization of Agent is submitted herewith.

FEB 26 2003

OR

☐ Please change the correspondence address for the above-identified application to:

☒ Customer Number



20350

PATENT TRADEMARK

OR

☐ Firm or Individual Name

Address

Address

City

Country

State

ZIP

Telephone

Fax

I am the:

☐ Applicant/Inventor.

☒ Assignee of record of the entire interest. See 37 CFR 3.71.
Certificate under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Name Vicki L. Randall, Associate General Counsel

Signature *V. L. Randall*

Date 2-20-03

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

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POWER OF ATTORNEY R AUTHORIZATION OF AGENT	Application Number	09/868,527
	Filing Date	08/19/2001
	First Named Inventor	Irvin H. Stumler
	Title	DISPENSING MACHINE WITH PORTION CONTROL
	Group Art Unit	
	Examiner Name	
	Attorney Docket Number	020803-014400US

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☒ Assignee of record of the entire interest. See 37 CFR 3.71.

Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/98).

SIGNATURE of Applicant or Assignee of Record

Name Vicki L. Randall, Associate General Counsel

Signature

Date 2-20-03

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